

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
) Criminal No.: 19-10080-NMG
v.)
)
GAMAL ABDELAZIZ *et al.*,)
)
)
Defendants)

**GOVERNMENT'S RESPONSE TO DEFENDANTS' SUPPLEMENTAL
PROPOSED JURY INSTRUCTION REGARDING VENUE [Dkt. 2341]**

The government respectfully submits this response to the defendants' supplemental notice requesting that the Court instruct the jury regarding venue on Counts One and Two. *See* Dkt. 2341. The government does not oppose the defendants' request, other than to state that government's proposed instruction below is a more accurate "adaptation" of the Sixth Circuit's pattern instructions, which are the basis for the defendants' proposal. *See* Sixth Circuit Pattern Criminal Jury Instruction 3.07.

I now turn to an issue known as venue. Some of the events that you have heard about in this case happened in other places. There is no requirement that the entire conspiracy charged in Count One or the entire conspiracy charged on Count Two took place here in Massachusetts, or that the agreement was formed here. But for you to return a guilty verdict on the conspiracy charge in Count One, the government must prove by a preponderance of the evidence that any part of the conspiracy¹ charged in Count One occurred in Massachusetts. And for you to return a guilty verdict on the conspiracy charged in Count Two, the government must prove by a preponderance of the evidence that any overt act in furtherance of the agreement took place here in Massachusetts. Such acts include, among other things, mailings to or from Massachusetts, telephone calls and/or e-mails to or from a person in Massachusetts, and financial transactions involving funds moving to, from, or through Massachusetts.²

Unlike all of the other elements that I have previously described, this is just a fact that the government only has to prove by a preponderance of the evidence. That

¹ The government reiterates its position that a conspiracy under 18 U.S.C. § 1349 does not require an overt act. *See* First Circuit Pattern Criminal Jury Instructions, § 4.18.1349.

² *See United States v. Georgiadis*, 819 F.3d 4, 11 (1st Cir. 2016).

means the government only has to convince you that it is more likely than not that part of the conspiracy took place here.

Respectfully submitted,

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By: /s/ Ian J. Stearns

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: October 5, 2021

/s/ Ian J. Stearns

IAN J. STEARNS